

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

BRADLEY J. SCHAUFENBUEL; et al.,)
)
Plaintiffs,)
)
)
v.)
)
INVESTFORCLOSURES FINANCIAL, L.L.C.; et al.,)
)
Defendants.)
)
)

) Case No. 09-CV-1221

) Judge Leinenweber

) Magistrate Judge Nolan

**PLAINTIFFS' OPPOSITION TO IFC DEFENDANTS AND SANCHEZ
MOTION TO DISMISS**

NOW COME Plaintiffs, by and through their attorneys Thurston Law Offices, P.C. and Law Offices of Joel M Weiner, LLC, and hereby respond to and oppose Defendants InvestForClosures Financial, L.L.C. ("IFC Financial"); InvestForClosures.com, LLC ("IFC.com"); InvestForClosures Ventures, LLC ("IFC Ventures") (collectively referred to as the "IFC Defendants"); and Francis X. Sanchez aka Frank Sanchez ("Sanchez") Motion to Dismiss as follows:

As an initial proposition and pursuant to Fed.R.Civ.P. 10(c), Plaintiffs hereby adopted by reference and incorporate herein as if set forth in full the entirety of their Opposition to Defendants Darcey Martin, Deana Guidi and Tom Rodriguez Motion to Dismiss which is being filed contemporaneously herewith. That response contains nearly all of the factual and legal arguments necessary to oppose and contest the present motion to dismiss.

The IFC Defendants and Sanchez take a somewhat unorthodox tact in their motion to dismiss. They seek to argue semantics about who is a "Defendant," who are the "IFC principals," and who are the "IFC entities." Yet, they don't seem to

have a problem in identifying which parties they represent or the nature of the causes of action alleged against them.

In one interesting twist in the argument by IFC Defendants and Sanchez regarding Plaintiffs' civil RICO cause of action, movants claim that the allegations of the Second Amended Complaint make "the IFC entities principals, employees, or associates of themselves. In a RICO context, Plaintiffs would have the principals and the enterprise be the same." (Motion to Dismiss, p. 4.) Thus, IFC Defendants and Sanchez seem to be admitting to the allegations regarding Plaintiffs' claim to pierce the LLC veils. (See Second Amended Complaint, Count X.) Yet, despite movants' attempt to raise a smoke screen, the allegations of the Complaint satisfy Rules 8(a) and 9(b) where they are required to and meet the heightened specificity requirements as set forth in the companion response.

Finally, the only other issue not addressed in the companion response and raised by IFC Defendants and Sanchez is that Plaintiffs' Count XIII for breach of contract fails to state a claim. Yet all of the elements are pleaded. Plaintiffs paid money in exchange for agreements to repay their investments with interest by a certain demand date. (Complaint, ¶¶85-86, 88-120 and Exhibits A and B.) There are exchanges of promises, consideration, meeting of the minds and performance by Plaintiffs via payment of the pledged money. (Complaint, ¶¶277-280 and Exhibits A and B, 283-84.) Plaintiffs demanded repayment when the investments came due, but Defendants have to date not repaid the investments and are therefore in breach of the agreements. (Complaint, ¶¶123-26, 128, 139, 144, 277, 281-82, 285-86.) IFC Defendants and Sanchez try to confuse the situation by

saying these are promissory notes, not securities, but that is a distinction without a difference. They were enforceable agreements that Defendants have breached.

Conclusion

WHEREFORE, for the reasons set forth above, Plaintiffs respectfully request that this honorable Court deny IFC Defendants and Sanchez 12(b)(6) Motion to Dismiss.

Respectfully submitted,
PLAINTIFFS

By: /s/ Robert C. Thurston
One of Their Attorneys

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